

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA** :  
 :  
 **v.** : **CRIMINAL NO. 19-412-01**  
 :  
 **ANDREW HARRIS** :

## GOVERNMENT'S PLEA MEMORANDUM

## I. INTRODUCTION/BACKGROUND

On July 16, 2019, an information was filed charging the defendant, in Count One, with accessing, and aiding and abetting the accessing of, a computer without authorization to obtain information from a protected computer, in violation of 18 U.S.C. § 1030(a)(2)(C); and in Count Two, with attempting to access a computer without authorization or exceeding authorized access to obtain information from any department of the United States, in violation of 18 U.S.C. § 1030(a)(2)(B) and (b), arising from the defendant using someone else's username to access a school computer, and attempting to obtain the tax returns of Donald Trump, without permission, from the Internal Revenue Service. The defendant will tender a plea of guilty to the information on September 5, 2019. The defendant has entered into a written plea agreement with the government, and the signed original will be filed with the Court during the Rule 11 colloquy.

## **II. TERMS OF PLEA AGREEMENT**

The plea agreement in this case has been reduced to writing and the signed originals will be filed with the Court during the Rule 11 colloquy. The plea agreement, a copy of which is attached, can be summarized in pertinent part as follows:

1. The defendant agrees to plead guilty to Counts One and Two of the information, arising from his using the username A.S., without that person's permission, to access a school computer, and then attempting to obtain the tax returns of a taxpayer, without authorization, from the Internal Revenue Service..

2. At the time of sentencing, the government will make whatever sentencing recommendation it deems appropriate.

3. Pursuant to §6B1.4 of the Sentencing Guidelines, the parties enter into the following stipulation: The parties agree and stipulate that, as of the date of this agreement, the defendant has demonstrated acceptance of responsibility for his offenses, making the defendant eligible for a 2-level downward adjustment under USSG § 3E1.1(a).

4. The defendant voluntarily and expressly waives all his rights to appeal or collaterally attack his conviction, sentence or any matter relating to this prosecution unless the government appeals, his sentence exceeds the statutory maximum, the sentencing judge erroneously departs upward from the otherwise applicable sentencing guideline range, or the sentencing judge imposes an upward variance above the final Sentencing Guideline range determined by the Court. Notwithstanding this waiver, the defendant may file a petition for collateral relief under 28 U.S.C. § 2255 but may only raise a claim that the attorney who

represented him at the time of the execution of the guilty plea agreement and the entry of his guilty plea in court provided constitutionally ineffective assistance.

5. The defendant agrees that the information provided under any off-the-record proffer letter may be used by the government to establish the factual basis for the guilty plea in this case.

No other promises, agreements or conditions have been entered into other than those set forth in the plea agreement.

### **III. STATUTORY MAXIMUM PENALTY**

The defendant understands, agrees, and has had explained to him by counsel that the Court may impose the following statutory maximum sentences: **Count One** (accessing a computer without authorization or exceeding authorized access to obtain information from a protected computer): 1 year of imprisonment, a 1-year period of supervised release, a \$100,000 fine, and a \$25 special assessment; **Count Two** (attempting to access a computer without authorization or exceeding authorized access to obtain information from any department of the United States): 1 year of imprisonment, a 1-year period of supervised release, a \$100,000 fine, and a \$25 special assessment.

The **total maximum sentence** is thus: 2 years imprisonment, a 1-year period of supervised release, a \$200,000 fine, and a \$50 special assessment.

**IV. ELEMENTS OF THE OFFENSES**

To prove a violation of **18 U.S.C. § 1030(a)(2)(C)**, the government would have to prove the following elements beyond a reasonable doubt:

1. that the defendant intentionally accessed or aided and abetted the accessing of a computer;
2. without authorization, in this case, using the username of another student without her permission;
3. to obtain information from a protected computer used in or affecting interstate commerce or communication.

To prove a violation of **18 U.S.C. 1030(a)(2)(B) and (b)**, the government would have to prove the following elements beyond a reasonable doubt:

1. that the defendant intentionally attempted to access a computer;
2. without authorization or exceeding authorized access;
3. to obtain information, in this case tax payer tax returns;
4. from a department or agency of the United States, in this case, the Internal Revenue Service.

**V. EVIDENCE IN SUPPORT OF THE CHARGES**

On November 2, 2016, Andrew Harris and Justin Hiemstra, two students at Haverford College, went to the school's computer lab and attempted to obtain Donald Trump's tax returns via the Free Application for Student Aid (FAFSA) website administered by the Department of Education. Harris was familiar with FAFSA because he had recently completed that application for himself.

In general, before beginning one's very first FAFSA application, an individual registers with the Office of Federal Student Aid (FSA Office). Once registered, the individual obtains a unique identifier known as an "FSA-ID", essentially the equivalent of a username. Once the individual has activated his FSA-ID, he can complete his first FAFSA application, and any subsequent applications, through the FAFSA website.

The FAFSA application requires an individual to provide various information, including financial and tax information. When an individual arrives at the section pertaining to his federal tax information, he is presented with two options: (1) he may input the federal tax information himself without the aid of the IRS, or (2) he may electronically import that information from the IRS by activating a link in the FAFSA application. When an individual chooses the second option and activates the link, his FAFSA session is suspended, and he is redirected to the IRS FSA-ID website. Once on that website, the individual must supply several unique pieces of information, such as one's social security number, to confirm that the individual requesting the tax return information is, in fact, seeking his own information. If all of the supplied information matches the information supplied in the previously-filed tax return, the FSA-ID web application retrieves the pertinent tax information required to complete the FAFSA application. The individual then activates a hyperlink on the FSA-ID website which takes him back to his suspended FAFSA application session. Once the FAFSA session has resumed, the retrieved tax information is imported into the appropriate fields of the FAFSA application form and the individual can complete the rest of the FAFSA application.

### **Attempt to Obtain the Trump Tax Returns**

In an attempt to obtain Donald Trump's tax information, defendants Harris and Hiemstra first opened a false FAFSA application in the name of a member of the Trump family. They found that someone had already obtained an FSA-ID for Donald Trump and set up an identification password. In order to reset the identification password, Harris and Hiemstra were required to answer challenge questions which that other person had originally created when he first set up the FSA-ID and password. They were able to do so and reset the password. Then, using Trump's personal identifiers, including his social security number and date of birth, they unsuccessfully attempted to import Trump's federal tax information into the bogus FAFSA application they had initiated in the name of a family member of Donald Trump.

The U.S. Department of Education monitors and logs all activity in the FAFSA applications. The Internal Revenue Service monitors and logs all attempts to obtain tax information on the FSA-ID system. Both systems link any activity to the Internet Protocol (IP) address used for the application and the attempt to get the tax information. The IP address used by Harris and Hiemstra was assigned to a computer in the Haverford College Roberts Hall computer lab. Records from Haverford showed two computers being used, one for a Google search for information that would answer the Trump challenge questions for the FSA-ID system and one for the attempts to get the unauthorized tax information. The activity logs obtained from Haverford College showed that A.S. logged onto one of the computers and M.P.H. logged onto the second computer, both of whom were active Haverford College students at the time.

A.S. was interviewed and denied any involvement in the attempt to obtain tax records. The government gathered evidence establishing that A.S. was not the individual who used her login to commit this offense.

M.P.H. was interviewed and said that he was not involved in any attempts to obtain Donald Trump's tax records. He said that Justin Hiemstra and Andrew Harris were close friends and were computer knowledgeable. They would attempt to hack into each other's accounts using social engineering. M.P.H. said that he had allowed Harris to use his logon credentials in the past. He said that before the Presidential election, he had had a conversation with Harris in which Harris talked about possibly getting Donald Trump's tax information and then releasing it to the press. He knows that Harris is familiar with the FAFSA process.

K.M. was interviewed and said that she was in Hiemstra's dorm room studying when Andrew Harris arrived to talk to Hiemstra. She did not hear what they were discussing but soon left with them to go to the computer lab. When they got to the lab, she went to one computer and began to watch videos. Harris and Hiemstra were on two other computers and were quiet as another student was occupying a computer facing them. When she heard them laughing, she went over and saw what appeared to be a tax site.

K.M. further stated that after about fifteen minutes, they all went back to Hiemstra's room. It was then that she found out from Hiemstra and Harris that they had tried to obtain Trump's tax returns. Harris talked about how he had discovered the possibility of using the FAFSA website to get the tax information.

R.B., a friend of M.P.H., stated that she was having dinner with Harris and Hiemstra on November 1, 2016, and they were talking about hacking into each other's accounts.

Later that night, Harris told her that he and Hiemstra were going to access Trump's tax records, although he did not tell her how they were going to do it. In October 2017, after Harris had been expelled from Haverford, R.B. talked to Harris, who admitted that he and Hiemstra had attempted to access Trump's tax information.

**Andrew Harris**, when questioned by law enforcement, stated that in October 2016, he filled out his own FAFSA application. During this time, he came up with the idea of getting the Trump tax information via the FAFSA process. He went to Hiemstra's dorm room and explained his idea about how to obtain the Trump information. Harris further admitted that on November 2, 2016, he, Justin Hiemstra, and K.M. went to the Roberts computer lab. Hiemstra swiped his Haverford College OneCard to get into the computer lab, then Hiemstra briefly left to swipe it at a different building in an attempt to disguise his whereabouts. Harris used M.P.H.'s Haverford credentials to log onto one of the computers while Hiemstra used the Haverford credentials of A.S. to log onto the other computer. They created a false FAFSA account for a family member of Donald Trump. They soon realized that Donald Trump already had an FSA-ID. Harris stated that, using Google, they were able to determine the answers for the account security questions and successfully reset the password for the account. Among other things, they needed the IRS filing status and home address for Trump to gain access to Trump's tax records and made multiple attempts to answer correctly, but failed.

**Justin Hiemstra**, when questioned by law enforcement, stated that, in mid to late October, 2016, his friend, Andrew Harris, approached him with an idea about obtaining Donald Trump's tax information. Harris said that Trump's social security number had been released online and that he thought they could get the tax information through the FAFSA system.



Hiemstra said that they decided to wait a couple of weeks. On November 2, 2016, Harris, Hiemstra and Hiemstra's girlfriend went to the Roberts computer lab. Hiemstra and Harris created a false FAFSA account under the name of a family member of Donald Trump. When they realized that a FSA-ID had already been created for Donald Trump, they attempted to obtain access to the existing account by answering the security questions associated with the account. They did a search in Google for answers to the security questions and then used Trump's social security number, to attempt to get the tax records. IRS records show that four attempts were made.

Hiemstra said that credentials from two other Haverford College students were used to access the two computers that he and Harris used. Harris was in possession of M.P.H.'s credentials. He could not recall whose credentials they used to log onto the second computer, but he admitted having the login credentials for approximately five or six students in his phone.

Respectfully submitted,

WILLIAM M. McSWAIN  
United States Attorney

s/Anthony J. Wzorek  
ANTHONY J. WZOREK  
Assistant United States Attorney

CERTIFICATION

I certify that the government's change of plea memorandum has been sent by  
electronic mail to:

William J. Brennan, Esq.

s/Anthony J. Wzorek

ANTHONY J. WZOREK

Assistant United States Attorney

DATE: August 30, 2019

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	<b>:</b>	
<b>v.</b>	<b>:</b>	<b>CRIMINAL NO. 19-</b>
<b>ANDREW HARRIS</b>	<b>:</b>	

**GUILTY PLEA AGREEMENT**

Under Rule 11 of the Federal Rules of Criminal Procedure, the government, the defendant, and the defendant's counsel enter into the following guilty plea agreement. Any reference to the United States or the government in this agreement shall mean the Office of the United States Attorney for the Eastern District of Pennsylvania.

1. The defendant agrees to plead guilty to an Information charging him in Count One with accessing, and aiding and abetting the accessing of, a computer without authorization to obtain information from any protected computer, in violation of 18 U.S.C. § 1030(a)(2)(C); and in Count Two with attempting to access a computer without authorization or exceeding authorized access to obtain information from any department of the United States, in violation of 18 U.S.C. § 1030(b), arising from using the username of A.S., without that person's permission, to access a school computer, and then attempting to obtain the tax returns of a taxpayer, without authorization, from the Internal Revenue Service. The defendant further acknowledges his waiver of rights, as set forth in the attachment to this agreement.

2. At the time of sentencing, the government will:

a. Make whatever sentencing recommendation as to imprisonment, fines, forfeiture, restitution, and other matters which the government deems appropriate.

b. Comment on the evidence and circumstances of the case; bring to the Court's attention all facts relevant to sentencing including the character and any criminal conduct of the defendant; address the Court regarding the nature and seriousness of the offense; respond factually to questions raised by the Court; correct factual inaccuracies in the presentence report or sentencing record; and rebut any statement of facts made by or on behalf of the defendant at sentencing.

c. Nothing in this agreement shall limit the government in its comments in, and responses to, any post-sentencing matters.

3. The defendant understands, agrees, and has had explained to him by counsel that the Court may impose the following statutory maximum sentences: Count One (accessing a computer without authorization or exceeding authorized access to obtain information from any department of the United States): 1-year of imprisonment, a 1-year period of supervised release, a \$100,000 fine, and a \$25 special assessment; Count Two (attempting to access a computer without authorization or exceeding authorized access to obtain information from any department of the United States): 1-year of imprisonment, a 1-year period of supervised release, a \$100,000 fine, and a \$25 special assessment.

Total Maximum Sentence is: 2-years of imprisonment, a 1-year period of supervised release, a \$200,000 fine, and a \$50 special assessment.

4. The defendant further understands that supervised release may be revoked if its terms and conditions are violated. When supervised release is revoked, the original term of imprisonment may be increased by up to 1 year on Counts One and Two.

Thus, a violation of supervised release increases the possible period of incarceration and makes it possible that the defendant will have to serve the original sentence, plus a substantial additional period, without credit for time already spent on supervised release.

5. In order to facilitate the collection of the criminal monetary penalties to be imposed in connection with this prosecution, the defendant agrees fully to disclose all income, assets, liabilities, and financial interests, held directly or indirectly, whether held in his own name or in the name of a relative, spouse, associate, another person, or entity, and whether held in this country or outside this country. Accordingly:

a. The defendant will submit a completed Financial Statement of Debtor to the U.S. Attorney's Office, in a form it provides and as it directs, within 14 days of execution of this plea agreement. The defendant promises that his financial statement and disclosures will be complete, accurate, and truthful.

b. The defendant expressly authorizes the U.S. Attorney's Office to obtain a credit report on him in order to evaluate the defendant's ability to satisfy any monetary penalty imposed by the Court.

c. Upon request by the United States, the defendant also agrees to submit to a financial deposition or interview prior to sentencing, and provide all documents within the defendant's possession or control as requested by the U.S. Attorney's Office regarding the defendant's financial resources and that of the defendant's household.

d. The defendant agrees not to transfer, assign, dispose, remove, conceal, pledge as collateral, waste, or destroy property with the effect of hindering, delaying, or defrauding the United States or victims. The defendant otherwise shall not devalue any property worth more than \$1,000 before sentencing, without the prior approval of the United States.

e. The defendant also agrees to execute any documents necessary to release any funds held in any repository, bank, investment, other financial institution, or any other location in order to make partial or total payment toward any monetary penalty that the Court may impose.

f. If the defendant fails to comply with this paragraph of the plea agreement or if any of the defendant's representations pursuant to the requirements set forth in this paragraph are false or inaccurate, the government may elect to void this agreement.

6. The defendant agrees that any restitution or fine imposed by the Court shall be due and payable immediately and on such terms and conditions that the Court may impose. In the event the Court imposes a schedule for the payment of restitution or fine, the defendant understands and agrees that such a schedule represents a minimum payment obligation and does not preclude the United States Attorney's Office from pursuing any other means by which to satisfy the defendant's full and immediately enforceable financial obligation under applicable federal and/or state law.

7. The defendant agrees that forfeiture, restitution, fine, assessment, tax, interest, or other payments in this case do not constitute extraordinary acceptance of responsibility or provide any basis to seek a downward departure or variance from the applicable Sentencing Guideline range.

8. The defendant agrees to pay the special victims/witness assessment in the amount of \$50 before the time of sentencing and shall provide a receipt from the Clerk to the government before sentencing as proof of this payment.

9. The defendant may not withdraw his plea because the Court declines to follow any recommendation, motion, or stipulation by the parties to this agreement. No one has promised or guaranteed to the defendant what sentence the Court will impose.

10. Pursuant to USSG § 6B1.4, the parties enter into the following stipulations under the Sentencing Guidelines Manual. It is understood and agreed that: (1) the parties are free to argue (except as stated below) the applicability of any other provision of the Sentencing Guidelines, including offense conduct, offense characteristics, criminal history, adjustments, and departures; (2) these stipulations are not binding upon either the Probation Office or the Court; and (3) the Court may make factual and legal determinations that differ from these stipulations and that may result in an increase or decrease in the Sentencing Guidelines range and the sentence that may be imposed:

a. The parties agree and stipulate that, as of the date of this agreement, the defendant has demonstrated acceptance of responsibility for his offense, making the defendant eligible for a 2-level downward adjustment under USSG § 3E1.1(a).

11. If the defendant commits any federal, state, or local crime between the date of this agreement and his sentencing, or otherwise violates any other provision of this agreement, the government may declare a breach of the agreement, and may at its option: (a) prosecute the defendant for any federal crime including, but not limited to, perjury, obstruction of justice, and the substantive offenses arising from this investigation, based on and using any information provided by the defendant during the investigation and prosecution of the criminal case; (b) be relieved of any obligations under this agreement regarding recommendations as to sentence; and (c) be relieved of any stipulations under the Sentencing Guidelines. Moreover, the defendant's previously entered guilty plea will stand and cannot be withdrawn by him. The decision shall be

in the sole discretion of the government both whether to declare a breach, and regarding the remedy or remedies to seek. The defendant understands and agrees that the fact that the government has not asserted a breach of this agreement or enforced a remedy under this agreement will not bar the government from raising that breach or enforcing a remedy at a later time.

12. In exchange for the promises made by the government in entering this plea agreement, the defendant voluntarily and expressly waives all rights to appeal or collaterally attack the defendant's conviction, sentence, or any other matter relating to this prosecution, whether such a right to appeal or collateral attack arises under 18 U.S.C. § 3742, 28 U.S.C. § 1291, 28 U.S.C. § 2255, or any other provision of law. As part of this knowing and voluntary waiver of the right to appeal or collaterally attack the conviction and sentence, the defendant expressly waives the right to raise on appeal or on collateral review any argument that (1) the statutes to which the defendant is pleading guilty are unconstitutional and (2) the admitted conduct does not fall within the scope of the statutes.

a. Notwithstanding the waiver provision above, if the government appeals from the sentence, then the defendant may file a direct appeal of his sentence.

b. If the government does not appeal, then notwithstanding the waiver provision set forth in this paragraph, the defendant may file a direct appeal or petition for collateral relief but may raise only a claim, if otherwise permitted by law in such a proceeding:

(1) that the defendant's sentence on any count of conviction exceeds the statutory maximum for that count as set forth in paragraph 3 above;

(2) challenging a decision by the sentencing judge to impose an "upward departure" pursuant to the Sentencing Guidelines;



(3) challenging a decision by the sentencing judge to impose an “upward variance” above the final Sentencing Guideline range determined by the Court;

(4) that an attorney who represented the defendant during the course of this criminal case provided constitutionally ineffective assistance of counsel; and

If the defendant does appeal or seek collateral relief pursuant to this subparagraph, no issue may be presented by the defendant in such a proceeding other than those described in this subparagraph.

13. The defendant acknowledges that pursuing an appeal or any collateral attack waived in the preceding paragraph may constitute a breach of this plea agreement. The government recognizes that the mere filing of a notice of appeal is not a breach of the plea agreement. The government may declare a breach only after the defendant or his counsel thereafter states, either orally or in writing, a determination to proceed with an appeal or collateral attack raising an issue the government deems barred by the waiver. The parties acknowledge that the pursuit of an appeal constitutes a breach only if a court determines that the appeal does not present an issue that a judge may reasonably conclude is permitted by an exception to the waiver stated in the preceding paragraph or constitutes a “miscarriage of justice” as that term is defined in applicable law.

14. The defendant waives any claim under the Hyde Amendment, 18 U.S.C. § 3006A (Statutory Note), for attorney’s fees and other litigation expenses arising out of the investigation or prosecution of this matter.

15. The defendant waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may

be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a.

16. The defendant is satisfied with the legal representation provided by the defendant's lawyer; the defendant and this lawyer have fully discussed this plea agreement; and the defendant is agreeing to plead guilty because the defendant admits that he is guilty. The defendant agrees that the information provided under any off-the-record proffer letter may be used by the government to establish the factual basis for the guilty plea in this case.

17. It is agreed that the parties' guilty plea agreement contains no additional promises, agreements, or understandings other than those set forth in this written guilty plea agreement, and that no additional promises, agreements, or understandings will be entered into unless in writing and signed by all parties.

WILLIAM M. McSWAIN  
United States Attorney

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ANDREW HARRIS  
Defendant

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DENISE WOLF  
Chief, Criminal Division  
Assistant United States Attorney

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WILLIAM J. BRENNAN  
Counsel for the Defendant

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ANTHONY J. WZOREK  
Assistant United States Attorney

Date: \_\_\_\_\_

f. that through my lawyer I would have the right to confront and cross-examine the witnesses against me;

g. that I could testify in my own defense if I wanted to and I could subpoena witnesses to testify in my defense if I wanted to; and

h. that I would not have to testify or otherwise present any defense if I did not want to and that if I did not present any evidence, the jury could not hold that against me.

4. I understand that if I plead guilty, there will be no trial and I would be giving up all of the rights listed above.

5. I understand that if I decide to enter a plea of guilty, the judge will ask me questions under oath and that if I lie in answering those questions, I could be prosecuted for the crime of perjury, that is, for lying under oath.

6. I understand that if I plead guilty, I have given up my right to appeal, except as set forth in the appellate waiver provisions of my plea agreement.

7. Understanding that I have all these rights and that by pleading guilty I am giving them up, I still wish to plead guilty.

8. I acknowledge that no one has promised me what sentence the Court will impose. I am aware and have discussed with my attorney that, at sentencing, the Court will calculate the Sentencing Guidelines range (including whether any departures apply), and then, in determining my sentence, will consider the Guideline range and all relevant policy statements in the Sentencing Guidelines, along with other sentencing factors set forth in 18 U.S.C. § 3553(a), including

(1) the nature and circumstances of the offense and my personal history and characteristics;

(2) the need for the sentence imposed-- (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (B) to afford adequate deterrence to criminal conduct; (C) to protect the public from further crimes of the defendant; and (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

(3) the kinds of sentences available;

(4) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(5) the need to provide restitution to any victims of the offense.

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ANDREW HARRIS  
Defendant

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WILLIAM J. BRENNAN  
Counsel for the Defendant

Dated: \_\_\_\_\_

**SEND THE PLEA AGREEMENT ALONG WITH THE ATTACHED COVER LETTER (DOUBLE-CLICK TO ACCESS IT).**

**ALSO, EVERY DEFENDANT MUST COMPLETE A FINANCIAL STATEMENT AND RETURN IT WITHIN 14 DAYS OF EXECUTION OF THE PLEA AGREEMENT. DOUBLE-CLICK TO OPEN THE FORM. THEN PRINT IT TO SEND TO DEFENSE COUNSEL ALONG WITH THE COVER LETTER, OR IF YOU PREFER, EMAIL IT TO COUNSEL.**

**DELETE THIS PAGE FROM THE FINAL PLEA AGREEMENT.**



Financial statement  
of individual debtor



Plea Agreement  
Cover Letter.docx